

AMENDED IN ASSEMBLY APRIL 2, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2904

Introduced by Assembly Member Hayashi

February 22, 2008

~~An act to add Article 1.5 (commencing with Section 123657) to Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, relating to child health. An act to add Section 16502.5 to the Welfare and Institutions Code, relating to county child welfare services.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2904, as amended, Hayashi. ~~Child health: child mortality review panel.~~ *County child welfare services: mortality review.*

Existing law requires counties to establish and maintain specialized entities within the county welfare department to provide child welfare services.

This bill would allow a county boards of supervisors to receive and review certain information relating to the death of a child who was receiving county child welfare services if specified conditions relating to abuse and neglect are met.

~~Existing law requires the State Department of Public Health to implement and administer various programs to provide a variety of health services to children and reduce infant and child mortality in the state. Existing law provides for the placement of children in protective custody in cases of child abuse and neglect.~~

~~Existing law also authorizes counties to establish interagency, child death review teams to assist local agencies in identifying and reviewing suspicious child deaths, as provided.~~

~~This bill would require every county to establish a Child Mortality Review Panel, to be comprised of 6 members, appointed by the board of supervisors. The bill would require the panel to investigate and develop findings and recommendations relating to, a child's death while in protective custody, in accordance with specified procedures and time lines. The bill would require the findings and recommendations to be presented in a written report to the board of supervisors in a closed session, would require the report to be submitted under seal to the presiding judge of the juvenile court, and would exempt the report from discovery by any party in litigation and laws providing for the disclosure of certain public records as provided.~~

~~By increasing the duties of local agency, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes-no.
State-mandated local program: yes-no.~~

The people of the State of California do enact as follows:

- 1 *SECTION 1. The Legislature finds and declares all of the*
- 2 *following:*
- 3 *(a) In order to execute their responsibilities in overseeing the*
- 4 *administration of the child welfare services and foster care*
- 5 *programs, county boards of supervisors have a compelling interest*
- 6 *in accessing case information when a child in protective custody*
- 7 *dies due to neglect or abuse.*
- 8 *(b) It is the intent of the Legislature to clarify that boards of*
- 9 *supervisors may access otherwise confidential case information*
- 10 *when a child who is in the custody of child welfare services or the*
- 11 *foster care system in their county dies due to neglect or abuse.*
- 12 *SEC. 2. Section 16502.5 is added to the Welfare and Institutions*
- 13 *Code, to read:*
- 14 *16502.5. (a) Notwithstanding any other provision of law, a*
- 15 *county board of supervisors may receive and review any records*

1 *in the custody of the juvenile court, law enforcement agencies, or*
2 *any other involved county agencies and other governmental and*
3 *medical officials relating to the death of a child who was receiving*
4 *county child welfare services, when one or more of the following*
5 *conditions are met:*

6 *(1) A county child protective services agency determines that*
7 *the abuse or neglect was substantiated.*

8 *(2) A law enforcement investigation concludes that the child*
9 *had suffered abuse or neglect.*

10 *(3) A medical examiner or coroner concludes that the child had*
11 *suffered abuse or neglect.*

12 *(b) The board may only receive and review the information in*
13 *closed session.*

14 *(c) The board or its members may not disclose or release any*
15 *juvenile case information and shall be bound by all state and*
16 *federal confidentiality laws.*

17 ~~SECTION 1. Article 1.5 (commencing with Section 123657)~~
18 ~~is added to Chapter 3 of Part 2 of Division 106 of the Health and~~
19 ~~Safety Code, to read:~~

20
21 ~~Article 1.5. Child Mortality Review Panel~~
22

23 ~~123657. Every county shall establish a Child Mortality Review~~
24 ~~Panel in accordance with this article.~~

25 ~~123657.1. (a) The Child Mortality Review Panel shall consist~~
26 ~~of six members, appointed by the board of supervisors. The~~
27 ~~members shall have a demonstrable record of concern for the~~
28 ~~protection of minors.~~

29 ~~(b) The panel shall be supported by adequate staff that is~~
30 ~~independent from all county agencies involved in child protection~~
31 ~~issues, and shall report directly to the board in the conduct of its~~
32 ~~duties.~~

33 ~~123657.2. (a) Except as provided in subdivision (c), not more~~
34 ~~than seven days after the discovery of an instance of a protected~~
35 ~~child's death, the panel shall investigate the protected child's death~~
36 ~~in accordance with the following procedures:~~

37 ~~(1) To the extent permissible under existing law, the panel's~~
38 ~~staff shall compile the following records:~~

1 ~~(A) Records in the custody of the juvenile court and involved~~
2 ~~county agencies relating to the provision of services to the child~~
3 ~~and his or her death.~~

4 ~~(B) Records in the custody of law enforcement and involved~~
5 ~~county agencies and other governmental and medical officials~~
6 ~~relating to services of the child and his or her death.~~

7 ~~(2) As soon as possible, but not later than 60 days after the~~
8 ~~discovery of the protected child's death, the panel shall review the~~
9 ~~records obtained pursuant to paragraph (1).~~

10 ~~(3) Conduct interviews of relevant county staff and shall obtain~~
11 ~~other necessary information regarding services received by the~~
12 ~~child and his or her death as needed.~~

13 ~~(b) Except as provided in subdivision (c), upon conclusion of~~
14 ~~the investigation, but not later than 90 days after the discovery of~~
15 ~~the protected child's death, the panel shall submit a written report~~
16 ~~of its findings and recommendations to the board of supervisors~~
17 ~~in closed session, and under seal to the presiding judge of the~~
18 ~~juvenile court.~~

19 ~~(c) Where the panel's investigation is delayed by circumstances~~
20 ~~outside its control, including, but not limited to, a criminal~~
21 ~~investigation or the absence of a key witness, the panel may delay~~
22 ~~its presentation to the board or may provide partial and tentative~~
23 ~~findings and recommendations until the matter can be fully~~
24 ~~investigated.~~

25 ~~123657.3. (a) Notwithstanding any other provision of law, the~~
26 ~~report of the panel created pursuant to Section 123657.2 shall not~~
27 ~~be discoverable by any party to litigation, and shall not be~~
28 ~~obtainable through the California Public Records Act (Chapter 3.5~~
29 ~~(commencing with Section 6250) of Division 7 of Title 1 of the~~
30 ~~Government Code). Any discussion of the report and deliberations~~
31 ~~of the panel shall be maintained as confidential by its members~~
32 ~~and staff, by the participants in the closed session, and by the~~
33 ~~presiding judge of the juvenile court.~~

34 ~~(b) Notwithstanding any other provision of law, Section 1157~~
35 ~~of the Evidence Code shall apply to the panel members, its staff,~~
36 ~~and the report created pursuant to Section 123657.2. The presiding~~
37 ~~judge shall maintain jurisdiction over all information of the panel,~~
38 ~~and may authorize release of the panel's conclusions where the~~
39 ~~public interest dictates.~~

1 ~~(e) Notwithstanding any other provision of law, for purposes~~
2 ~~of complying with Section 54954.2 of the Government Code, if~~
3 ~~the report created pursuant to Section 123657.2 is presented to the~~
4 ~~board of supervisors in closed session, the presentation and~~
5 ~~discussion of the report shall be noticed as “Report of the Child~~
6 ~~Mortality Review Panel.” Members of relevant county agencies~~
7 ~~responsible for the protection of children may attend and assist the~~
8 ~~board of supervisors in its closed session at the discretion of the~~
9 ~~board. The closed session discussions shall be covered under~~
10 ~~Section 1157 of the Evidence Code.~~

11 ~~SEC. 2. If the Commission on State Mandates determines that~~
12 ~~this act contains costs mandated by the state, reimbursement to~~
13 ~~local agencies and school districts for those costs shall be made~~
14 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
15 ~~4 of Title 2 of the Government Code.~~